

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

SPL. APPL. WRIT No. 756 of 2004

VIKRAM SINGH CHAUHAN
V/S
MARWARR GRAMIN BANK, PALI

Mr. AK RAJVANSHY, for the appellant / petitioner

Date of Order : 13.1.2005

HON'BLE SHRI N P GUPTA, J.
HON'BLE SHRI DINESH MAHESHWARI, J.

ORDER

Heard learned counsel.

The petitioner's claim for appointment on compassionate ground was rejected by the respondent Marwar Gramin Bank by the letter dated 10.7.1999 (Annex. 5 to the writ petition) informing the mother of the petitioner that under the Scheme of Appointment on Compassionate Grounds maintained by the Bank, with reference to the details of the assets of the family and on her being employed in Government Service, it was not possible to give appointment to the petitioner. Repeated requests thereafter have been turned down with reference to the fact that by the letter dated 10.7.1999, the Bank has already expressed its inability to accord appointment. Aggrieved of the refusal by the Bank, the petitioner submitted the writ petition after serving a notice for demand of justice. The learned Single Judge has considered the facts of the case and law applicable thereto in sufficient detail and found that the mother of the petitioner was already in Government Service as Teacher and in such circumstances if discretion has been exercised not to give appointment to the petitioner on compassionate grounds, it could not be said that any legal right of the petitioner has been infringed. Referring to the decision of Hon'ble Apex Court in the case of SAIL & Anr. Vs. Awadhesh Singh, reported in JT 2001 (4) SC 73, the learned Single Judge opined that where dependent was already in

service, compassionate appointment should not be provided to other heir.

Having perused order impugned and the record of the case, we are satisfied that the learned Single Judge has rightly dismissed the writ petition. The fact that the mother of the petitioner, one of the heirs of the deceased employee, is already in Government Service as Teacher remains undeniable. The financial condition of the family as seen from the information supplied by them also makes it clear that the family cannot be said to be in a condition of distress. It is clear from the letter Annex.4 by the mother of the petitioner herself that the family was having a liability of about Rs. 76,000/- against the assets of Rs. 2,07,855/-. Besides this, the respondent Bank has pointed out in their reply that the Bank has paid amount of Rs. 1,31,461.20 as gratuity and Rs. 62,755.25 towards leave encashment to the mother of the petitioner. The Bank has also paid amounts of Rs. 1,55,918/- of Provident Fund and Rs. 37,000/- of EBLI. Besides this, the amount of family pension is also payable to the nominee of the deceased employee. It is apparent that the family of the deceased employee cannot be said to be suffering from such financial crisis that the measure of compassion was required to invoked for according employment to the petitioner. It is to be imbibed that purpose of providing appointment on compassionate ground is to provide for relief to the family of an employee whose death might result in depriving of the family of the basic source of livelihood.

Apart from the judgments cited by the learned Single Judge, we may also refer to a later decision of the Hon'ble Supreme Court in Punjab National Bank Vs. Ashwini Kumar Taneja, reported in JT 2004 (6) SC 418, wherein the Hon'ble Supreme Court reiterating the principles for considering the case of compassionate appointment has also referred to the judgment dated 5.1.2004 in the case of General Manager (D&PB) & Ors. Vs. Kunti Tiwary & Anr. (later reported in (2004) 7 SCC 271) and held that view of the High Court that retiral benefits were not

required to be taken into consideration while dealing with prayer for compassionate appointment was not right and the Hon'ble Supreme Court has categorically held that such amounts have to be taken into consideration. Viewed from this angle also, the benefits received by the family and its financial condition makes it clear that the Bank cannot be said to have committed any illegality in refusing compassionate appointment to the petitioner.

The appeal is totally devoid of merit and, therefore, the same is dismissed summarily.

(DINESH MAHESHWARI), J.

(N P GUPTA), J.

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